IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

WP(C).No. 28364 of 2004(B)

PETITIONER:

RAMESH.C., CHOORIKKADAN HOUSE,
CHEERAKAYAM, NATTAKKAL P.O.,
KASARGODE.

BY ADV. SRI.UNNIKRISHNAN V.
SRI.K.R.MICHAEL

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY
SECRETARY, MINISTRY OF DEFENCE,
NEW DELHI.

2. CHIEF OF ARMY STAFF, ARMY HEAD
QUARTERS, NEW DELHI.

3. A.D.ARTILLERY RECORDS,
NASIK ROAD CAMP.

4. THE BRANCH RECRUITING OFFICER,
BRANCH RECRUITING OFFICE,
CALICUT.

5. DIRECTOR GENERAL OF MEDICAL SERVICES
(ARMY), ADJUTANT GENERAL BRANCH, ARMY
HEAD QUARTERS `L' BLOCK, R.K.PURAM,
NEW DELHI-110001.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG
SRI.THOMAS MATHEW NELLIMOOTTIL,SR.P.ARM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ADMIT CARD DATED 27.5.2001

EXT.P2 TRUE COPY OF THE PRIMARY MEDICAL EXAMINATION REPORT DATED 21.4.2001

EXT.P3 TRUE COPY OF THE REVIEW CERTIFICATE ISSUED BY THE 4TH RESPONDENT DATED21.4.2001

EXT.P4 TRUE COPY OF THE MEDICAL EXAMINATION CERTIFICATEDATED 30.4.2001

EXT.P5 TRUE COPY OF THE MEDICAL REPORT DATED 22.10.2001

EXT.P6 TRUE COPY OF THE MEDICAL CASE SHEET DATED 30.8.2001

EXT.P7 TRUE COPY OF THE CLINICAL SUMMARY REPORT OF THE INHS ASWINI DATED 31.8.2001

EXT.P8 TRUE COPY OF THE MEDICAL EXAMINATION OF RECRUITS DATED 26.9.2001

EXT.P9 TRUE COPY OF THE DISCHARGE SLIP DATED 8.1.2002

EXT.P10 TRUE COPY OF THE ORDER OF INVALIDING FROM SERVICE DATED 22.1.2002

EXT.P11 TRUE COPY OF THE MEDICAL CERTIFICATE DATED 3.2.2003

EXT.P12 TRUE COPY OF THE REPRESENTATION DATED 29.8.2003

EXT.P14 TRUE COPY OF THE LETTER DATED 26.12.2003

EXT.P15 TRUE COPY OF THE MEDICAL CERTIFICATE DATED 30.1.2004

EXT.P16 TRUE COPY OF THE CERTIFIDCATE DATED 4.2.2004

EXT.P17 TRUE COPY OF THE REPRESENTATION DATED NIL

EXT.P18 TRUE COPY OF THE LETTER DATED 16.6.2004.

RESPONDENTS' EXHIBITS:

EXT.R3(a) TRUE COPY OF THE ORDER DATED 11.6.2002 ISSUED BY THE ARMY HEADQUARTERS, NEW DELHI.

EXT.R3(b) TRUE COPY OF THE COMMUNICATION NO. PC 64714/MED/RTG. 5 (OR)(E) DATED 2.4.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.R3(c) TRUE COPY OF THE LETTER NO. 76063/PET/DGMS-5ADATED 25.8.2005 ISSUED BY THE FIFTH RESPONDENT.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C NO. 28364 OF 2004

Dated this the 20th day of December, 2006

JUDGMENT

This Writ Petition is filed challenging discharge of the petitioner from army on account of his medical invalidation. According to the petitioner, petitioner had a temporary injury on his eye on account of lime falling on the cornea. However, the problem was temporary and the petitioner was found fit. Even though petitioner is free from any disability whatsoever, petitioner was discharged based on the medical report issued by the fifth respondent, is his case. However, petitioner has produced several medical certificates from credible institutions like Medical Colleges in Kerala which show that he is quite fit even for army service. In fact petitioner was initially found fit by the INS Sanjeevini, a naval hospital. If petitioner was only temporarily disabled, then there may not be any justification for his discharge. Since the Army has experts at the Armed Force Medical College, Pune, petitioner should be given a chance to appear for medical examination before the Appellate Medical Board to be constituted by the fifth

respondent at Armed Force Medical College, Pune. I am sure the Appellate Medical Board will certainly consider the certificates obtained by the petitioner from the qualified doctors from the Medical Colleges in Kerala and examine the petitioner, and if he is found fit, they will certify him eligible. Fifth respondent is directed to constitute the Appellate Medical Board for the petitioner's medical examination for his eyes at Pune and communicate the same to the petitioner within one month from the date of production of a copy of this judgment by the petitioner. The Appellate Medical Board is directed to conduct medical examination of the petitioner for his eye and send report with copy to the petitioner within one month thereafter. If petitioner is found fit, there will be direction to the concerned respondent to absorb the petitioner in service immediately thereafter.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge